COLORADO SPRINGS

GAZETTE TELEGRAPH

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UPDATE

Amendment 2 fight heads for top court

WHAT'S NEXT

The U.S. Supreme Court will review Amendment 2 after plaintiffs and state attorneys file their legal briefs. A host of other organizations also are expected to file "friend of the court" briefs. After it has received the paperwork, the court will schedule oral arguments. That could be as early as this spring — but more likely this fall. In reviewing the law the court could:

- Overturn the decision of lower courts and uphold Amendment 2.
- Strike down Amendment 2 for either the same or different reasons than lower courts.
- Send the amendment back to lower courts for review under a different legal standard.

Justices to rule on gay rights

By **Angela Dire**
Gazette Telegraph

DENVER — The U.S. Supreme Court agreed Tuesday to use Colorado's Amendment 2 in deciding the larger question of whether it is constitutional for states to ban gay rights laws.

In a rare move, the nation's highest court plucked the case for review from a stack of some 560 cases on all subjects. The nine justices could take up the case as early as this spring — though fall is more likely, legal experts say.

The court's decision will likely carry profound implications for gay activists and their political opponents. Not only will the high court decide the fate of several Amendment 2-like measures hanging in limbo across the country, but it could set the parameters for how far courts will go in protecting gays from discrimination.

"This case raises very important issues about the future of civil rights law, about the expansion of civil rights and about the role of voters in determining civil rights issues," said Colorado Attorney General Gale Norton, who asked the high court to take the case.

Amendment 2 opponents said they were pleased about the review

See **COURT**/A3

THE REACTION

Norton: Appealed the case to the U.S. Supreme Court.

"The point of Colorado voters was not that Colorado is the 'hate state.' The point is Colorado voters want to make these decisions for themselves."

Colorado Attorney General Gale Norton

Perkins: Homosexuals don't need additional protection.

"We're looking forward to their decision. All American citizens have the same protection under the law. Those who practice homosexuality are included in that group."

Will Perkins,
co-founder of Colorado for Family Values

"This is one of the most important civil rights cases that has come down the pike in decades."

David Miller,
attorney for the American Civil Liberties Union and a member of the team challenging Amendment 2

DIGEST

HEALTH

▶ **RADICAL TREATMENT FOR AIDS PATIENT:** An AIDS patient will soon receive a bone marrow transplant from a baboon in an effort to rebuild his ravaged immune system./**A5**

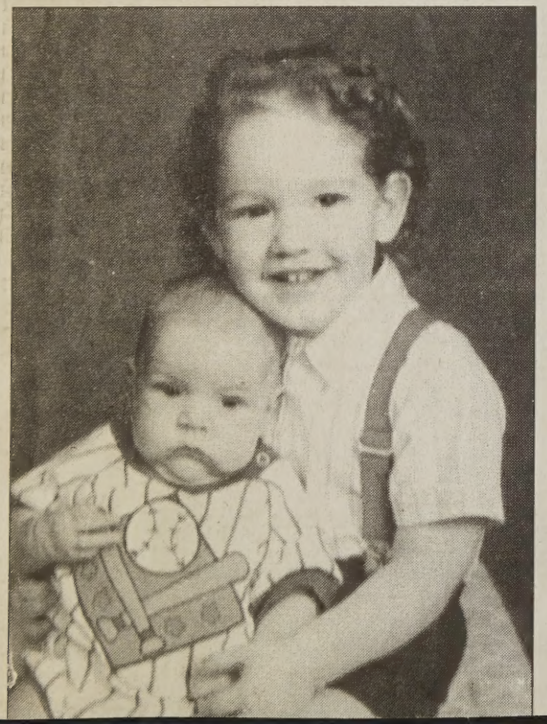
NATION

▶ **BODY PARTS IDENTIFIED:** A woman whose painted body parts were found scattered around El Paso, Texas, was identified after a photo of her severed head was shown on television. Police arrested her husband Tuesday./**A6**

WORLD

▶ **FRAMEWORK FOR PEACE:** British and Irish officials today will announce a framework for negotiations toward a permanent peace in Northern Ireland./**A8**

Associated Press



CITY/REGION

▶ **TRAGIC END TO FRIENDSHIP:** A 16-year-old boy shot and killed Friday in Colorado Springs and the 15-year-old boy who allegedly was holding the gun when it went off were inseparable friends, say those who knew the two. Calvin Lamont Peoples died in the incident; his best friend was arrested on suspicion of manslaughter and possession of a handgun by a juvenile. His name was not released by authorities./**B1**

▶ **CLOUD NINE STILL OPEN:** A bar determined by the city's liquor board to be a haven for crack deals probably will remain open at least for another six weeks — despite an order to close it. The owner has appealed the decision./**B3**

STATE

▶ **UNTIMELY RESCUE:** Members of the Mountain Rescue Aspen said that a man who died in an avalanche last week might have been saved if a rescue search had been quicker./**B3**

OPINION

▶ **FEDERAL SPENDING:** There is only one way to bring the federal-debt monster to heel: Congress must pass a balanced-budget amendment to the Constitution, writes columnist Joseph Perkins./**B5**

BUSINESS

▶ **SPRINGS FIRM TO PROCESS FHP CLAIMS:** A Colorado Springs company will process medical claims for FHP, the largest health maintenance organization operating in Colorado./**B7**

▶ **TRAVEL AGENT GROUP FILING SUIT:** The American Society of Travel Agents said Tuesday it will file a class-action antitrust suit against major U.S. airlines over reduced commissions./**B7**

SPORTS

▶ **ROCKIES' FIRST LOSS:** The Colorado Rockies suffered their first loss of the season Tuesday, pitching prospect Rodney Pedraza. Pedraza found

PEOPLE, ETC.

A different contract

Forget the "Contract With America." **Sen. Alfonse D'Amato**, R-N.Y., is ready to sign a marriage contract with TV gossip columnist **Claudia Cohen**, 40. "I feel like the frog who has been kissed by the princess," D'Amato, 57, said Tuesday, adding: "Claudia is my Cinderella."

Here's the story . . .

There she was, Jan from the original "Brady Bunch," signing autographs at a Harrisburg, Pa., shopping mall. But it wasn't a promo for the new "Brady Bunch Movie". **Eve Plumb,** who has left her Brady image behind for an art career, was busy signing prints of her work. The new movie featuring a new Brady family didn't hurt, however, as the signing session drew a lot of fans.

A much-needed break

All the **Eagles** needed to do was follow the advice in one of their biggest hits: "Take It Easy." The band got back together for a 70-concert tour last May, but had to quickly cancel it when **Glenn Frey** needed colon surgery. They went back on the road last month. "We needed a break. We were tired," said Eagle **Don Henley**.

Barely a bikini

The bride and groom wore white, but just barely. "Baywatch" star **Pamela Anderson** walked down the aisle in a skimpy white bikini for her wedding Sunday to **Motley Crue** drummer **Tommy Lee** in Cancun, Mexico. Lee wore white Bermuda shorts and no shirt or shoes. "The bride wore a very tiny — an extremely tiny — white bikini," **Judge Pedro Solis** said.

Steve Fossett, 50, is shown lifting off Saturday from Olympic Stadium in Seoul, South Korea. Fossett became the first person to successfully fly a balloon solo across the Pacific Ocean.

Balloonist first to solo across Pacific Ocean

A Chicago stockbroker flew his balloon into Canada on Tuesday, becoming the first person to successfully fly solo across the Pacific Ocean. Steve Fossett, 50, also broke the distance record of 5,208 nautical miles. He took off from Olympic Stadium in Seoul, South Korea, on Saturday.

Fossett touched down "softly" in a farmer's field about 250 miles east of Calgary, said Cpl. Al Lavallee of the Royal Canadian Mounted Police.

Throughout the trip, Fossett could sleep for only three hours at

▼▼▼ WHO SAID THAT?

▶ "I was kind of a runty thing. And I liked to hang out with the girls. That annoyed the boys. So every day after school, they would throw me over the edge of the parking lot. Eventually my beatings were so inevitable that I'd just go to the lot and wait."

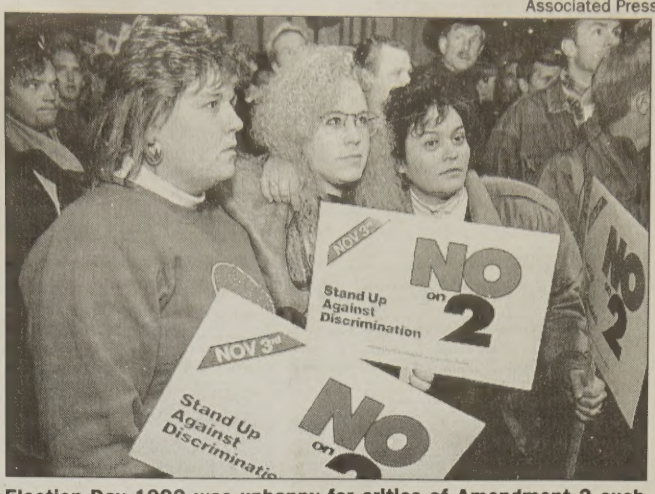
Harrison Ford,
actor,
in Premiere magazine

▶ "I remember being sent out of the room a lot. I was like a disease. The teacher told me I was infectious. I remember the words 'Jim can come back in the room now if he can control himself.' On my report card were the words 'Jim finishes his work first so he can bother the other kids.' So basically I'm saying that I was shy."

Jim Carrey,
actor,
in Premiere magazine

Keno

Associated Press



Election Day 1992 was unhappy for critics of Amendment 2 such as, from left, Barbara Anne Dunning, Holly Marie Landre and Terry Lynn Lanford who were attending a protest rally in Denver.

Court/ Amendment tied up for two years

From A1

even though they face a much more conservative court than the one that laid the groundwork for civil rights during the 1950s, '60s and '70s.

"I think those people in the center of the court will have an open mind," said Jean Dubofsky, the lead attorney for the plaintiffs challenging Amendment 2. "You've got the state doing a very broad attack on one particular group."

Members of Colorado for Family Values, the Colorado Springs group that wrote Amendment 2, said they were confident the high court would uphold the measure and clip the wings of the gay rights movement.

"I believe the die will be cast and it will show the fallacy of this thing called 'gay rights,' " said Kevin Tebedo, one of the group's founders. "In order for the Supreme Court to rule that Amendment 2 is unconstitutional, they're going to have to deny a millenium of moral, ethical and legal teaching. If they do that it would be extremely damaging to our society, so we don't think they're going to do it."

The high court's decision will settle an issue tied up in the courts for more than two years. Amendment 2 — which would prohibit any tier of government in the state from passing laws that protect individuals from discrimination based on sexual orientation — was decisively approved by voters in November 1992.

But almost immediately, several individuals and three cities filed suit to overturn the measure. Denver District Judge Jeffrey Bayless slapped a temporary injuction on the amendment, and the injunction was upheld by the Colorado Supreme Court in a ground-breaking decision in July 1993.

At that point, the U.S. Supreme Court refused to get involved and Amendment 2 returned to Bayless for a full trial. The judge declared it unconstitutional in December 1993 and made the injuction permanent. Then last October, the Colorado Supreme Court upheld Bayless for the second time. Gays and any other "independently identifiable group," it reasoned, have a fundamental right to participate in the democratic process on the same footing as other groups.

Now the nine U.S. justices must decide if the Colorado court is correct. The state court based its ruling on two previous U.S. Supreme Court cases in California and Ohio. The first involved a 1967 amendment to the California Constitution that gave property owners the right to discriminate in selling or renting. The second involved a 1969 charter amendment passed by voters in Akron, Ohio. It required any fair-housing ordinance to go before voters — even though other ordinances could be passed simply by a majority vote on the City Council.

The U.S. Supreme Court struck down both laws, arguing that they placed an unfair barrier in front of racial minorities who were pushing for those kinds of protective ordinances at the time.

Similarly, the Colorado court argued, Amendment 2 is unfair because it requires gays to achieve something more difficult than other groups to get protection from discrimination. Any other group could simply persuade a majority on the local city council or state Legislature to pass an anti-discrimination law. But if gays wanted the same protection, they would have to convince a majority of the state's voters to change the state Constitution.

Amendment 2 backers say there are two major flaws in the court's ruling. First, they argue, the two cases the Colorado court used to justify its decision are too circumstantial to draw such a sweeping conclusion. Both involve racial minorities — who've long received protection from the courts because of their unique history of discrimination. And neither specifically recognizes a fundamental right for all citizens to participate equally in the democratic process.

Secondly, Amendment 2 proponents argue, the Colorado court's ruling is so broad it opens the door to all kinds of challenges. Incumbent politicians, they say, could use it to overturn term limits. Smokers could use it to abolish no-smoking laws.

Coming up with an answer to that argument will be one of the challenges for Amendment 2 opponents when they go before the high court. They say there are ways to narrow the Colorado court's ruling so it doesn't allow any group to challenge any law it doesn't like.

But that's the least of their worries. While publicly Amendment 2's opponents put a positive spin on the high court's decision to take the case, privately they're less optimistic. The last time the court took up a gay rights issue was in 1986 when it upheld the constitutionality of laws that make sodomy a crime in Bowers vs. Hardwick.

The current court is at least as conservative in its thinking if not more. Just the fact that the court agreed to review Amendment 2, critics say, most likely indicates that a majority of justices disagree with the Colorado Supreme Court's ruling.

Still, those who've argued past gay rights cases before the court say the case isn't lost.

"This is not a case that requires any special . . . or novel . . . theory," said Lawrence Tribes, the Harvard law professor who argued the 1986 Bowers vs. Hardwick case. "This case involves in some ways a very simple question of whether any group can be systematically fenced out of the normal processes of laws and politics. I think if it's argued properly the chances are good."

A CHRONOLOGY OF AMENDMENT 2

Nov. 3, 1992: Amendment 2 passes with 54 percent approval from Colorado voters.

Nov. 12, 1992: Several individuals and three cities file suit to have the law overturned, arguing that it violates the Equal Protection Clause of the U.S. Constitution.

Jan. 15, 1993: Denver District Judge Jeffrey Bayless slaps a temporary injunction on Amendment 2, saying that it may well be unconstitutional.

July 19, 1993: The Colorado Supreme Court upholds Bayless' decision, arguing that gays have a "fundamental right" to participate in the political process on an equal par with other groups.

Nov. 4, 1993: U.S. Supreme Court denies an appeal to review the injunction.

October 1993: Amendment 2 returns to Bayless for a lengthy and comprehensive trial.

Dec. 14, 1993: Bayless, in a written ruling on the trial, declares Amendment 2 unconstitutional and makes the injunction permanent.

Oct. 11, 1994: For the second time, the Colorado Supreme Court upholds Bayless and affirms its argument on Amendment 2.

Feb. 21, 1995: The U.S. Supreme Court decides to review Amendment 2.

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